

## REMARKS/ARGUMENTS

Claims 1-17 remain in the application, all of which stand rejected. Claims 18-22 were drawn to a non-elected invention, and have been canceled without prejudice. New claims 23 and 24 are presented.

### 1. Objection to Claims 1 and 2

Claims 1 and 2 stand rejected because the Examiner believes these claims should refer to --periodically receiving content files via a satellite downlink-- instead of "periodically receiving content files via a satellite uplink".

Applicants believe the choice of "uplink" or "downlink" is largely based on the point of reference, and that the two terms are equivalent. Regardless, and in an effort to further prosecution, applicants have replaced "uplink" with --downlink-- in each of claims 1 and 2.

### 2. Rejection of Claims 1, 2, 4, 6, 9, 11-13 and 15-17 Under 35 USC 102(e)

Claims 1, 2, 4, 6, 9, 11-13 and 15-17 stand rejected under 35 USC 102(e) as being anticipated by Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr").

With respect to claim 1, the Examiner asserts that Burr teaches:

periodically receiving content files via a satellite uplink (Col 1, lines 30-43; Burr, jr. teaches in FIG. 1, real-time digital audio program material is broadcast from a network headend facility 10 over a satellite communication link 20 to a number of geographically dispersed users (such as affiliate radio stations) 30); storing the received content files; and retrieving, playing and broadcasting at least some of the stored content files (Col 1, lines 44-62; Col 2, lines 13-27) in accordance with an electronic schedule (This is inherent to all the radio station to have a electronic schedule same as a time schedule for each program that need to be broadcast).

4/10/2007 Office Action, pp. 2-3, sec. 3.

Applicants respectfully disagree. Specifically, applicants do not agree with the Examiner's assertion that the "real-time digital audio program material" broadcast from the "network headend facility 10" is received or stored as "content files". Burr indicates that the "real-time digital audio program" is encoded and transmitted over a satellite link as an "encoded real-time digital audio stream" (col. 2, lines 1-2), and "as it is being received, this headend-sourced program audio material is immediately rebroadcast to an associated local station audience, as through conventional radio broadcast transmission equipment, and the like" (col. 1, lines 40-43). Burr describes in more detail how a real-time digital audio stream is demodulated and immediately broadcast in col. 7, line 40 - col. 8, line 42. See, also, Burr's FIG. 2, in which it can be seen that a real-time MPEG stream is routed through demodulator 200, TDM demultiplexer 210, audio stream router 280, MPEG decoder 240, and real-time output 250. At best, applicants believe the real-time MPEG stream is buffered. However, applicants can find no teaching or suggestion by Burr that the real-time MPEG stream is received or stored as "content files".

Despite applicants' disagreement with the Examiner's characterization of Burr's real-time digital audio program as being received and stored as "content files", applicants note that Burr teaches:

Concurrent with the real-time satellite transmission of the to-be-rebroadcast program material, additionally unique information (e.g. local commercials, specific station identifiers, delayed programming, etc.) may be downloaded from the headend station to its affiliate radio station receivers and stored in a local digital storage device (e.g. hard disk drive, solid state flash memory, and the like) for later use by the affiliate station. . . . When stored material is to be played back, it may be inserted or interleaved with or overlaid on the real-time programming or forwarded to an external device as the radio station.

Burr, col. 1, lines 44-62.

. . . As a non-limiting example, to implement a sixty second station break having two commercial messages or 'spots' and a station identification (ID) message, the following actions may be performed:

. . .  
[actions are listed]

Now although the each of the eight actions listed above for a typical sixty second station break is a relatively simple function, *it is imperative that they be executed with a very high degree of timing accuracy*, in order to ensure that they be perceived to the listener as occurring instantaneously (without delay). If not, for example if there were a two second delay between successive file playbacks, the effect would be very noticeable to the listening audience. . .

Burr, col. 2, lines 34-62. Emphasis added.

From the above, it is clear that Burr's radio station may receive and store limited types of content files, but that they must be played back in such a manner that they are synced with the receipt and rebroadcast of the real-time digital audio program. However, this sort of limited use of content files is not what applicants intended to capture in claim 1. Claim 1 has therefore been amended to recite:

retrieving, playing and broadcasting at least some of the stored content files in accordance with an electronic schedule, without syncing the playback and broadcast of the at least some of the stored content files to a real-time network feed.

Support for the above amendment is found, at least, in paragraphs [0021] and [0023] of applicants' specification. As amended, claim 1 is believed to be novel and unobvious over Burr's teachings, which indicate that "it is imperative" that locally stored content be played back with "a very high degree of timing accuracy" (i.e., so that it syncs with the receipt and rebroadcast of a real-time digital audio program).

Claim 2 is believed to be allowable, at least, because it depends from claim 1.

Claim 4 has been rewritten in independent form. Claim 4 is believed to be allowable, at least, because 1) Burr does not teach that a radio station receives *both* "content files" and "a network schedule", and 2) Burr does not teach "merging" the network schedule with a local schedule. Rather, Burr teaches that a radio station receives a "real-time digital audio program". As previously noted, the real-time digital audio program is not received in the form of content files, and thus Burr does not employ an "electronic schedule" for retrieving, playing and broadcasting any content files. Although Burr also teaches that a radio station may receive and playback content files, there is no indication that the content files are played back in response

to any sort of "merger" of network and local schedules. Claim 4 is therefore believed to be novel and unobvious over Burr's teachings.

Claim 6 is believed to be allowable, at least, because it depends from claim 4. Claim 6 is also believed to be allowable because Burr does not teach 1) "determining, for each break, whether the local schedule specifies at least a minimum quantity of content for the break", or 2) "if the local schedule does not specify a minimum quantity of content for the break, filling the break with the specified content, if any, *and optional content specified by the network schedule.*" Rather, Burr only teaches that a break needs to be filled with local content, and if it is not, a radio station's broadcast will sound non-professional. Burr does not provide a solution for alleviating the non-professional sound. Applicants' claim 6 does provide such a solution.

Claim 9, as amended, recites that the electronic schedule provided to the affiliate radio stations specifies "breaks that may be dynamically resized or filled in different ways, based on each affiliate radio station's available content to fill the breaks". Burr does not teach such dynamically resizable or fillable breaks. Support for the amendment to claim 9 is found, at least, in paragraphs [0021] and [0041] of applicants' specification.

Claim 11 is believed to be allowable, at least, because it depends from claim 9.

Claim 12 has been amended similarly to claim 9, and is believed to be allowable, at least, for reasons similar to why claim 9 is believed to be allowable.

Claims 13 and 15-17 are believed to be allowable, at least, because they depend from claim 12.

### 3. Rejection of Claims 3 and 14 Under 35 USC 103(a)

Claims 3 and 14 stand rejected under 35 USC 103(a) as being unpatentable over Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr") in view of Billmaier (US Pat. App. Pub. No. 2004/0244042).

Claims 3 and 14 are believed to be allowable, at least, because they respectively depend from claims 1 and 12.

In addition, and with respect to claim 3, it is noted that Billmaier's paragraphs [0033] and [0034] do not disclose "a network schedule that is provided to [a] radio station via an internet connection." Rather, Billmaier teaches a radio schedule database 116 that 1) "maintains schedule information for past, present, and future radio programs" (par. [0033]), and 2) "receives radio program schedule information directly from the radio stations 112 via the Internet 114" (par. [0034]). Thus, the radio schedule database 116 receives schedule information "from" radio stations, rather than providing schedule information "to" radio stations.

With respect to claim 14, Billmaier's paragraphs [0033] and [0034] do not teach any sort of "backup connection for transferring content files to ones of the affiliate radio stations".

#### 4. Rejection of Claim 5 Under 35 USC 103(a)

Claim 5 stands rejected under 35 USC 103(a) as being unpatentable over Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr") in view of Osato et al. (US Pat. App. Pub. No. 2003/0153264; hereinafter "Osato"). More specifically, the Examiner asserts that 1) Osato's paragraph [0095] teaches that network and local schedules may be merged once an hour to generate an electronic schedule for the next hour, and that 2) "it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Osato to Burr, Jr. in order to constantly broadcasting [sic] radio program without being silence between the gaps/breaks". See, 4/10/2007 Office Action, p. 9, sec. 6. Applicants respectfully disagree.

Unlike the "electronic schedule" generated by claim 5, which is used for "retrieving, playing and broadcasting at least some of the stored content files" of a radio station, the "schedule of a plurality of events" discussed by Osato is not indicated to be a schedule of "content files" to be retrieved, played and broadcast. Furthermore, even if Osato's "schedule of a plurality of events" were to be construed

as a schedule of content files to be retrieved, played, et cetera, Osato does not indicate that any change in the "schedule of a plurality of events" is a result of merging a "local schedule" with a "network schedule". As a result, Osato does not teach the limitations of claim 5 that are missing in Burr.

Furthermore, Osato's disclosure is directed to how the playback schedules of broadcast entities may be monitored so that a music purchaser may use the playback schedules to find a previously aired song that the music purchaser would like to purchase. Osato's disclosure is very thin, and arguably silent, on the particulars regarding how content is received and broadcast by a radio station or other broadcast entity. This being the case, applicants do not believe that one of ordinary skill in the art would have been motivated to combine Osato's and Burr's teachings.

Claim 5 is believed to be allowable for at least the above reasons.

#### 5. Rejection of Claim 7 Under 35 USC 103(a)

Claim 7 stands rejected under 35 USC 103(a) as being unpatentable over Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr") in view of Plotnick et al. (US Pat. App. Pub. No. 2005/0097599). More specifically, the Examiner asserts that Plotnick teaches performing the method of claim 6, "wherein the minimum quantity of content is at least ninety seconds of content", in paragraph [0226]. Applicants respectfully disagree.

Applicants have reviewed Plotnick's paragraph [0226] and can only find a reference to "the approximate amount of time that the ad would run (i.e., 30 seconds, or possibly 2 minutes for the entire commercial break)." Applicants cannot find a specific reference to "at least ninety seconds of content". Furthermore, and despite the length of any particular commercial break, applicants cannot find any teaching by Burr or Plotnick that it should be determined "whether [a] local schedule specifies at least a minimum quantity of content for [a] break", or that different actions should be taken based on such a determination, as recited in claim 6 (the parent of claim 7).

Claim 7 is believed to be allowable for at least the above reasons.

#### 6. Rejection of Claim 8 Under 35 USC 103(a)

Claim 8 stands rejected under 35 USC 103(a) as being unpatentable over Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr"). In rejecting claim 8, the Examiner asserts:

...Burr, Jr. also teaches although the each of the eight actions listed above for a typical sixty second station break is a relatively simple function, it is imperative that they be executed with a very high degree of timing accuracy, in order to ensure that they be perceived to the listener as occurring instantaneously (without delay). So, if one of those commercial/advertise (content) becomes corrupted, there is obviously [no] other option to cover the corrupted commercial/content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching so that program can broadcast continually with a high degree of timing accuracy.

4/10/2007 Office Action, p. 10, sec. 8.

Applicants respectfully disagree. Burr neither teaches nor suggests a way to cure corrupted content. Nor does Burr even mention that corrupted content is an issue that needs to be addressed. As a result, applicants do not believe that one of ordinary skill in the art would have been motivated by Burr's teachings (or even common knowledge) to utilize their invention as a way to handle corrupted content.

Claim 8 is believed to be allowable because it depends from claim 4. Claim 8 is also believed to be allowable for, at least, the above additional reasons.

#### 7. Rejection of Claim 10 Under 35 USC 103(a)

Claim 10 stands rejected under 35 USC 103(a) as being unpatentable over Burr, Jr. et al. (US Pat. No. 6,978,116; hereinafter "Burr") in view of Corts et al. (US Pat. App. Pub. No. 2004/0244042; hereinafter "Corts").

Applicants do not understand the Examiner's rejection in view of paragraph [0329] of Corts et al.'s US Pat. App. Pub. No. 2004/0244042. US Pat. App. Pub.

2004/0244042 was filed in the name of Billmaier (and not Corts et al.). Furthermore, US Pat. App. Pub. 2004/0244042 does not contain 329 or more paragraphs.

Applicants have reviewed their own Form 1449s, as well as the Examiner's Form-892, and cannot find any citation to a published application of Corts et al. If the Examiner has misstated the basis for his rejection, applicants ask that the Examiner restate his rejection with a correct cite. In the absence of such a restatement, applicants assert that claim 10 is allowable, at least, because 1) it depends from claim 9, and 2) Billmaier does not teach that which is missing from Burr.

#### 8. New Claims 23 and 24

Newly presented claim 23 is supported, at least, by paragraphs [0021] and [0041] of applicants' specification. Claim 23 is believed to be allowable, at least, for reasons similar to why claims 4 and 9 are believed to be allowable (see, sec. 2 of these Remarks/Arguments, *supra*).

Newly presented claim 24 is supported, at least, by original claims 1 and 2, and by paragraphs [0021] and [0041] of applicants' specification. Claim 24 is believed to be allowable, at least, for reasons similar to why claims 1 and 9 are believed to be allowable (see, sec. 2 of these Remarks/Arguments, *supra*).



9. Conclusion

In light of the amendments and remarks provided herein, applicants respectfully request the issuance of a Notice of Allowance.

Respectfully submitted,  
HOLLAND & HART, LLP

By: 

Gregory W. Osterloth  
Tel: (303) 295-8205

Reg. No. 36,232